

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

MARC VEASEY, *et al.*,

Plaintiffs,

v.

RICK PERRY, *et al.*,

Defendants.

Civil Action No. 2:13-cv-193 (NGR)  
(Consolidated Action)

**OPPOSED MOTION OF VEASEY-LULAC PLAINTIFFS**  
**TO ORDER THE PAYMENT OF CERTAIN**  
**EXPERT WITNESS EXPENSES**

The Veasey-LULAC Plaintiffs respectfully move this Court for an order under Federal Rule of Civil Procedure 26(b)(4)(E) requiring Defendants to pay reasonable fees and expenses incurred by Veasey-LULAC experts in responding to Defendants' deposition requests. Pursuant to Local Rule 7.2, counsel for Veasey-LULAC Plaintiffs contacted counsel for Defendants. Defendants have indicated that they oppose this motion.

Under the Federal Rules of Civil Procedure, "unless manifest injustice would result, the court must require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery." Fed. R. Civ. P. 26(b)(4)(E); *see also McCaig v. Wells Fargo Bank*, No. 11-351, 2014 WL 360546 at \*1 (S.D. Tex. Feb. 3, 2014) ("Under Federal Rule of Civil Procedure 26(b)(4)(E), each party has the obligation to pay reasonable fees and expenses generated by experts responding to discovery."). The Veasey-LULAC Plaintiffs submit that the

following expenses constitute “reasonable fee[s] for time spent in responding to discovery” sought by Defendants:

1. Veasey-LULAC expert T. Ransom Cornish spent 3 hours preparing for Defendants’ deposition and 6.75 hours attending and traveling to and from the deposition. Mr. Cornish’s hourly rate, \$225.00, is reasonable for an expert of his experience and qualifications. Thus, Defendants should reimburse Mr. Cornish for 9.75 hours at \$225.00 per hour: a total of \$2,193.75. Moreover, Mr. Cornish incurred \$36.49 in expenses traveling to and from the deposition. Thus, under FRCP 26(b)(4)(E) defendants should be ordered to pay Mr. Cornish a total of \$2,230.24. *See* Ex. A (Cornish invoice).
2. Veasey-LULAC expert Michael Herron spent 23.333 hours preparing for, traveling to and from, and attending Defendants’ deposition. Dr. Herron’s hourly rate for this sort of work, \$250.00, is reasonable for an expert of his experience and qualifications. Thus, Defendants should reimburse Dr. Herron for 23.333 hours at \$250.00 per hour: a total of \$5,833.25. Moreover, Dr. Herron, a resident of New Hampshire, incurred transportation, hotel, and meal expenses while attending the deposition in Washington, DC. These expenses total \$1,188.43. Thus, under FRCP 26(b)(4)(E) defendants should be ordered to pay Dr. Herron a total of \$7,021.68. *See* Ex. B (Herron invoice).
3. Veasey-LULAC expert George Korbel spent 8.5 hours preparing for and 7 hours attending and traveling to and from Defendants’ deposition. Mr. Korbel’s hourly rate, \$350.00, is reasonable for an expert of his experience and qualifications. Thus, Defendants should reimburse Mr. Korbel for 15.5 hours at \$350.00 per hour: a total of \$5,425.25. Moreover, Mr. Korbel incurred \$15 in meal expenses and \$132 in travel expenses. Thus, under FRCP 26(b)(4)(E) defendants should be ordered to pay Mr. Korbel a total of \$5,572.00. *See* Ex. C (Korbel invoice).
4. Veasey-LULAC expert Gabriel Sanchez spent 7 hours preparing for and 10 hours attending and traveling to and from Defendants’ deposition. Dr. Sanchez’s hourly rate, \$250.00, is reasonable for an expert of his experience and qualifications. Thus, under FRCP 26(b)(4)(E), Defendants should be ordered to pay Dr. Sanchez for 17 hours at \$250.00 per hour: a total of \$4,250. *See* Ex. D (Sanchez invoice).
5. Veasey-LULAC expert Matthew Barreto spent 12 hours preparing for, traveling to and from, and attending Defendants’ deposition. Dr. Barreto’s hourly rate for this sort of work, \$250.00, is reasonable for an expert of his experience and qualifications. Thus, under FRCP 26(b)(4)(E), Defendants should reimburse Dr. Barreto for 12 hours at \$250.00 per hour: a total of \$3,000. *See* Ex. E (Barreto invoice).
6. Veasey-LULAC expert Allan Lichtman spent 2.75 hours preparing for and 6.25 hours attending Defendants’ deposition. Dr. Lichtman’s hourly rate, \$400.00, is reasonable for an expert of his experience and qualifications. Thus, under FRCP 26(b)(4)(E),

Defendants should be ordered to pay Dr. Lichtman for 9 hours at \$400.00 per hour: a total of \$3,600. *See* Ex. F (Lichtman invoice).

For ease of reference, here is the same information in chart form:

<b>Expert</b>	<b>Hours</b>	<b>Hourly Rate</b>	<b>Cost of Time (Hrs*Rate)</b>	<b>Incidental Expenses</b>	<b>Total</b>
Cornish	9.75	\$225	\$2,193.75	\$36.49	\$2,230.24
Herron	23.333	\$250	\$5,833.25	\$1,188.43	\$7,021.68
Korbel	15.5	\$350	\$5,425.25	\$147	\$5,572.00
Sanchez	17	\$250	\$4,250.00	\$0	\$4,250.00
Barreto	12	\$250	\$3,000.00	\$0	\$3,000.00
Lichtman	9	\$400	\$3,600.00	\$0	\$3,600.00

No “manifest injustice” would result from requiring the state of Texas to pay these reasonable expert witness fees. The experts designated by Veasey-LULAC Plaintiffs prepared extensive expert reports setting forth all of their opinions in great detail and attaching numerous detailed exhibits. These reports, which complied with all relevant federal rules, were provided to Defendants well in advance of trial, in compliance with the docket control order entered by this Court. Nevertheless, Defendants requested that Veasey-LULAC Plaintiffs also present each of their experts for deposition, which essentially consisted of revisiting those same comprehensive expert reports with each respective witness. Therefore, it would not be manifestly unjust to require the Defendants, as the party that requested the depositions, to pay these individual experts their reasonable fees and expenses for time spent solely preparing for and providing deposition testimony.



There also is no reason to hold this motion in abeyance until the resolution of the appeal in this case. Unlike a motion for attorneys' fees, which would require this Court to conduct a prevailing party analysis, *see Buckhannon Board & Care Home, Inc. v. West Virginia Dept. of Health and Human Resources*, 532 U.S. 598, 605 (2001), a motion under F.R.C.P. 26(b)(4)(E) can be filed by either side—not just the side that ultimately prevails—to recover expenses incurred by its experts in responding to the other side's deposition requests, *See McCraig*, 2014 WL 360546 at \*1. Thus, unlike a motion for attorneys' fees, this motion is ripe for resolution now.

WHEREFORE, the Veasey-LULAC Plaintiffs respectfully pray that this Court grant this motion ordering Defendants to pay certain expert witness fees and expenses, and enter the attached Order with respect to such motion.

Date: January 23, 2015

Respectfully submitted,

/s/ Chad W. Dunn  
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*Counsel for LULAC*

**CERTIFICATE OF SERVICE**

I hereby certify that on January 23, 2015, I served a true and correct copy of the foregoing via the Court's ECF system to all counsel of record.

/s/ Chad W. Dunn

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# **EXHIBIT A**

T. RANSOM CORNISH  
ATTORNEY AT LAW

August 13, 2014

Brazil & Dunn LLP  
4201 Cypress Creek Pkwy., #530  
Houston, Texas 77068

Attn: Scott Brazil

**INVOICE**

For Professional Services Rendered in Connection With;

Expert witness fee relating to the following cause of action:

Cause #2:13-cv-193 (NGR)  
Marc Veasey, et al., vs. Rick Perry, et al.  
United States District Court  
Southern District of Texas  
Corpus Christi Division

Deposition preparation; review report, review exhibits, discussions with attorney	3.00 hours	
Deposition taken at Attorney General's office August 7, 2014, including travel	6.75 hours	
Total hours	9.75 @ \$225.00	\$ 2,193.75

Costs:

Mileage	\$32.24
Toll road fees	<u>4.25</u>

Total costs	<u>36.49</u>
	<u>\$ 2,230.24</u>



# **EXHIBIT B**

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Michael C. Herron

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INVOICE

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Account: Texas ID 2014  
Invoice Date: August 26, 2014

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**Account summary**

Consulting services (23.333 hours at \$250/hour):	\$5833.25
Hotel in Washington, including fees:	\$369.13
Bus from Hanover to Boston:	\$38.00
Airfare from Boston to Washington, including baggage:	\$285.10
Airfare from Washington to Chicago, including baggage:	\$370.10
Taxi from DCA to Hotel:	\$18.00
Taxi from Hotel to DCA:	\$19.00
Taxi from ORD to downtown Chicago:	\$39.90
Food on 8/19/2014:	\$32.76
Food on 8/20/2014:	\$16.44
<i>Amount Due</i>	<i>\$7021.68</i>

**Summary of hours worked by Michael C. Herron**

- 8/17/2014. Initial read Milyo and Hood reports. 1.0 hours.
- 8/18/2014. Re-read Milyo and Hood reports; skim Ansolabehere report. Print documents. 1.0 hours.
- 8/19/2014. Travel day. Leave home at 8:40am eastern, arrive hotel at 3:45pm eastern. Travel time: 7 hours, 5 minutes. Meeting with Emma,

Gerry, and Josh, plus Armand via phone. 1.45 hours. Preparation in hotel after meeting. 1.0 hours. Total: 9.833 hours.

- 8/20/2014. Travel day. Arrive at deposition 8:00am eastern, depart at 1:30pm eastern. Leave hotel for DCA at 4:30pm eastern. Flight to Chicago (caught earlier plane but then weather delay). Cab to downtown Chicago, arriving downtown Chicago at 9:30pm central/10:30pm eastern. Total: 11.5 hours.

# **EXHIBIT C**



In re: Texas voter ID litigation *Veasey et al*/Deposition Billing Pursuant to Federal Rules

Monday October 29, 2014

Per Federal Rule

Preparation	Hours		
Review of Reports and pleadings, review of earlier works, additional proof, proof reading of data, drop box additions and general preparation	6.5		
Meet and Confer prior to Deposition	2.0		
Deposition (including read and sign)	4.0		
Travel	3.0		
	15.5	\$350.00	\$ 5,425.00
Per Diem (2 meals at \$ 7.50)		\$	15.00
176 miles (at \$.75)		\$	132.00
Please Pay this amount			\$ 5,572.00



# **EXHIBIT D**

### **Invoice for Expert Witness Related Work**

Gabriel R Sanchez  
Associate Professor of Political Science  
University of New Mexico

#### Deposition Related Time

Deposition Research (August 21-22)	(4 Hours)
- Review of Hood and Milyo Rebuttal Reports	
- Research associated with Milyo and Hood Reports	
Travel From Albuquerque to Houston Texas (August 24)	(2 Hours)
Deposition Preparation with Chad Dunn	(3 Hours)
- August 25, 2014 (6:00-7:30 pm)	
- August 26, 2014 (7:30-9:00 am)	
Formal Deposition Time (August 25)	(6 Hours)
- Deposition lasted from 9:09 a.m -3:06 p.m	
Travel from Houston to Albuquerque (August 25)	(2 Hours)

Total Hours 17 Hours

Hourly Rate \$250.00

Total \$4,250.00

# **EXHIBIT E**

PROF. MATT A. BARRETO  
 POLITICAL SCIENCE  
 DEMOGRAPHICS  
 STATISTICS

Billing Date: **December 29, 2014**

Invoice # 14-1229

Bill To: Texas Attorney General  
 P.O. Box 12548  
 300 W. 15th Street  
 Austin, TX 78701

Attention: John Scott  
 Deputy AG for Civil Litigation

**Project Name:** Veasey v. Perry Texas Voter ID

**Project Dates** **August 25-26, 2014**

Description	Total
Deposition in Texas ID lawsuit	12 total hours
Preparation for, and participation in deposition with officials from the Texas Attorney General's office related to expert report which I co-authored with Dr. Gabriel Sanchez	
12 total hours @ \$250/hour	\$ 3,000.00

**TOTAL** **\$ 3,000.00**

**Please issue check to:**

**Matt A. Barreto (in the amount of \$3,000)**

# **EXHIBIT F**



**Allan J. Lichtman**

**Invoice**

**TO: J. Gerald Hebert**

**FROM: Allan J. Lichtman**

**SUBJECT: Bill for deposition and deposition preparation  
*Veasey v. Perry*--Texas voter ID litigation.**

- 1. Deposition preparation, 8/19/14 2.75 hours**
- 2. Deposition, 8/21/14, 6.25 hrs.**
- 3. Total time: 9 hours.**
- 9 Hours at \$400 per hour = \$3,600**

**Total Bill: \$3,600**